



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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WRITER & DIRECT DIAL

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December 20, 2018

SUBMITTED VIA ECF
Hon. Alvin K. Hellerstein
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

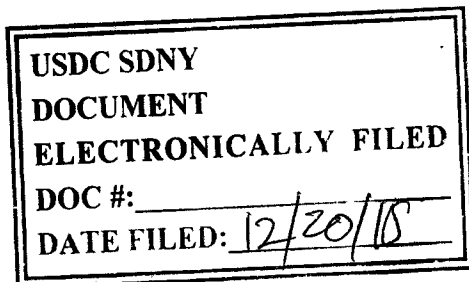
Re: **SEC v. Premier Holding Corp., 18-misc-0532 (AKH)**

Your Honor:

We write in response to the Court's December 19, 2018 Order in the above-captioned matter [Docket Entry 15]. Respectfully, the Order misconstrues the applicable standards that govern the SEC's application. Since the application is to enforce an administrative subpoena in an ongoing investigation, it is governed by 15 U.S.C. § 78(u)(c), and not Rule 37, which governs discovery in a filed, litigation context.

For that reason, we respectfully request that the Court withdraw the Order set out in Docket Entry 15 and revert to the previously ordered briefing schedule, which would result in the SEC's Reply Brief in Further Support of its Application being submitted on or before January 11, 2019.

In the interim, the SEC will continue its attempts to obtain voluntary compliance with its subpoena, but as set forth in our previous submission (*see* paragraphs 11-19 of the November 19, 2018 Ellenbogen Declaration submitted with the application), since our repeated efforts to discuss this matter with Respondent's various counsels have been unsuccessful, it is highly unlikely that continued discussions would yield anything other than more obstruction and delay.



Respectfully submitted,

s/ Howard A. Fischer
Howard A. Fischer
Senior Trial Counsel

cc: Opposing counsel (via ECF)

there has been no refusal to obey
Def't's appearance is inconsistent with contumacy, the basis of 15 U.S.C. § 78(u)(c). Rule 37(a)(1) is applicable since the statute does not control. See R. 81, FRCP. I adhere to my Dec. 19, 2018 order (ECF #15).
AKH
12.20.18
[Signature]

Judge wrote:

“Defendant’s appearance is inconsistent with contumacy, the basis of 15 U.S.C. § 78(u)(c). There has been no refusal to obey. Rule 37(a)(1) is applicable since the statute does not control. See R. 81, FRCP. I adhere to my Dec. 19, 2018 order (ECF #15).

12-20-18

Alvin K. Hellerstein”